



STATE OF ARKANSAS
**Department of Finance
and Administration**

OFFICE OF THE DIRECTOR
1509 West Seventh Street, Suite 401
Post Office Box 3278
Little Rock, Arkansas 72203-3278
Phone: (501) 682-2242
Fax: (501) 682-1029
<http://www.state.ar.us/dfa>

November 16, 2007

University of Arkansas
Division of Agriculture
Attention: Ivory W. Lyles
2301 S. University Ave.
Little Rock, AR 72203

Re: Advisory Opinion # 483-07-10

Dear Mr. Lyles:

This letter is in response to your request for an advisory opinion in accordance with A.C.A. § 19-11-715(b). Your request for an advisory opinion is based on the following facts:

1. The Board of Trustees of the University of Arkansas, acting for and on behalf of the University of Arkansas Cooperative Extension Service, desires to contract with ComMetrics, Inc. for the continuance and completion of the development of the ArkansasHabitat.com website and contact management databases.
2. Sandra Miller is the owner of ComMetrics, Inc., and her husband, Dr. Wayne Miller, is employed by the University of Arkansas Cooperative Extension Service.
3. Dr. Miller had no involvement in the procurement process and did not participate either directly or indirectly in this matter.
4. Dr. Miller does not have control over, nor any ownership interest in, ComMetrics, Inc.
5. You are requesting a waiver to allow the contract between ComMetrics, Inc. and the University of Arkansas.

I note initially that you are requesting a waiver pursuant to A.C.A. § 19-11-715(c). This particular code provision provides for the granting of a waiver from the provisions of A.C.A. § 19-11-705 to state employees and is not applicable in this instance, as Sandra Miller is not a state employee. The proper course is to determine whether A.C.A. § 19-11-705 prevents ComMetrics, Inc. from contracting with the University of Arkansas due to a conflict of interest on the part of Dr. Miller.

Pursuant to A.C.A. § 19-11-705, it would be a conflict of interest for Dr. Miller, an employee of the University of Arkansas, to participate either directly or indirectly in the procurement process resulting in a contract that the University entered into with ComMetrics, Inc., a company owned by his spouse. Assuming that Dr. Miller had no involvement with the contract entered into between the University of Arkansas and ComMetrics, Inc., there has been no violation of the ethics provisions found in Arkansas's procurement law at A.C.A. § 19-11-701 et seq. The ethics laws do not prohibit an agency that employs

one spouse from contracting with the other spouse as long as the state employee is not in any way involved with the procurement process involving his or her spouse.

Governor's Executive Order 98-04 requires that agencies must obtain the approval of the Chief Fiscal Officer of the State in order to contract with the spouse of a state employee if the amount of the contract will exceed \$25,000. Accordingly, if ComMetrics, Inc.'s contract with the University of Arkansas is greater than \$25,000, the University of Arkansas should submit a request for approval of the contract.

This advisory opinion is issued in accordance with Arkansas Code Annotated § 19-11-715(b) and compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Act and Executive Order 98-04.

Sincerely,

Richard Weiss
Director

CC:
Joe Giddis, Office of State Procurement